



General Assembly

February Session, 2010

Raised Bill No. 415

LCO No. 1934

01934_____ET_

Referred to Committee on Energy and Technology

Introduced by:
(ET)

***AN ACT REVISING THE MEMBERSHIP OF THE CONNECTICUT
RESOURCES RECOVERY AUTHORITY BOARD AND THE
ENVIRONMENTAL JUSTICE STATUTE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-261 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2010*):

3 (a) There is hereby established and created a body politic and
4 corporate, constituting a public instrumentality and political
5 subdivision of the state of Connecticut established and created for the
6 performance of an essential public and governmental function, to be
7 known as the Connecticut Resources Recovery Authority. The
8 authority shall not be construed to be a department, institution or
9 agency of the state.

10 (b) On and before May 31, 2002, the powers of the authority shall be
11 vested in and exercised by a board of directors, which shall consist of
12 twelve directors: Four appointed by the Governor and two ex-officio
13 members, who shall have a vote including the Commissioner of
14 Transportation and the Commissioner of Economic and Community

15 Development; two appointed by the president pro tempore of the
16 Senate, two by the speaker of the House, one by the minority leader of
17 the Senate and one by the minority leader of the House of
18 Representatives. Any such legislative appointee may be a member of
19 the General Assembly. The directors appointed by the Governor under
20 this subsection shall serve for terms of four years each, from January
21 first next succeeding their appointment, provided, of the directors first
22 appointed, two shall serve for terms of two years, and two for terms of
23 four years, from January first next succeeding their appointment. Any
24 vacancy occurring under this subsection other than by expiration of
25 term shall be filled in the same manner as the original appointment for
26 the balance of the unexpired term. Of the four members appointed by
27 the Governor under this subsection, two shall be first selectmen,
28 mayors or managers of Connecticut municipalities; one from a
29 municipality with a population of less than fifty thousand, one from a
30 municipality of over fifty thousand population; two shall be public
31 members without official governmental office or status with extensive
32 high-level experience in municipal or corporate finance or business or
33 industry, provided not more than two of such appointees shall be
34 members of the same political party. The chairman of the board under
35 this subsection shall be appointed by the Governor, with the advice
36 and consent of both houses of the General Assembly and shall serve at
37 the pleasure of the Governor. Notwithstanding the provisions of this
38 subsection, the terms of all members of the board of directors who are
39 serving on May 31, 2002, shall expire on said date.

40 (c) On and after June 1, 2002, the powers of the authority shall be
41 vested in and exercised by a board of directors, which shall consist of
42 eleven directors as follows: Three appointed by the Governor, one of
43 whom shall be a municipal official of a municipality having a
44 population of fifty thousand or less and one of whom shall have
45 extensive, high-level experience in the energy field, provided, of the
46 directors appointed by the Governor on or after the effective date of
47 this section, one shall be a representative of a community, civic
48 organization or nongovernmental agency, one shall have extensive,

49 high-level experience in the environmental field and one shall have
50 extensive, high-level experience in the energy field; two appointed by
51 the president pro tempore of the Senate, one of whom shall be a
52 municipal official of a municipality having a population of more than
53 fifty thousand and one of whom shall have extensive high-level
54 experience in public or corporate finance or business or industry,
55 provided, of the directors appointed by the president pro tempore of
56 the Senate on or after the effective date of this section, one shall be a
57 municipal official of a municipality having a population of more than
58 fifty thousand and one shall have extensive high-level experience in
59 public health; two appointed by the speaker of the House of
60 Representatives, one of whom shall be a municipal official of a
61 municipality having a population of more than fifty thousand and one
62 of whom shall have extensive high-level experience in public or
63 corporate finance or business or industry; two appointed by the
64 minority leader of the Senate, one of whom shall be a municipal official
65 of a municipality having a population of fifty thousand or less and one
66 of whom shall have extensive high-level experience in public or
67 corporate finance or business or industry; two appointed by the
68 minority leader of the House of Representatives, one of whom shall be
69 a municipal official of a municipality having a population of fifty
70 thousand or less and one of whom shall have extensive, high-level
71 experience in the environmental field. No director may be a member of
72 the General Assembly. Not more than two of the directors appointed
73 by the Governor shall be members of the same political party. The
74 appointed directors shall serve for terms of four years each, provided,
75 of the directors first appointed for terms beginning on June 1, 2002, (1)
76 two of the directors appointed by the Governor, one of the directors
77 appointed by the president pro tempore of the Senate, one of the
78 directors appointed by the speaker of the House of Representatives,
79 one of the directors appointed by the minority leader of the Senate and
80 one of the directors appointed by the minority leader of the House of
81 Representatives shall serve an initial term of two years and one month,
82 and (2) the other appointed directors shall serve an initial term of four

83 years and one month. The appointment of each director for a term
84 beginning on or after June 1, 2004, shall be made with the advice and
85 consent of both houses of the General Assembly. The Governor shall
86 designate one of the directors to serve as chairperson of the board,
87 with the advice and consent of both houses of the General Assembly.
88 The chairperson of the board shall serve at the pleasure of the
89 Governor. Any appointed director who fails to attend three
90 consecutive meetings of the board or who fails to attend fifty per cent
91 of all meetings of the board held during any calendar year shall be
92 deemed to have resigned from the board. Any vacancy occurring other
93 than by expiration of term shall be filled in the same manner as the
94 original appointment for the balance of the unexpired term. As used in
95 this subsection, "municipal official" means the first selectman, mayor,
96 city or town manager or chief financial officer of a municipality that
97 has entered into a solid waste disposal services contract with the
98 authority and pledged the municipality's full faith and credit for the
99 payment of obligations under such contract.

100 (d) The chairperson shall, with the approval of the directors,
101 appoint a president of the authority who shall be an employee of the
102 authority and paid a salary prescribed by the directors. The president
103 shall supervise the administrative affairs and technical activities of the
104 authority in accordance with the directives of the board.

105 (e) Each director shall be entitled to reimbursement for said
106 director's actual and necessary expenses incurred during the
107 performance of said director's official duties.

108 (f) Directors may engage in private employment, or in a profession
109 or business, subject to any applicable laws, rules and regulations of the
110 state or federal government regarding official ethics or conflict of
111 interest.

112 (g) Six directors of the authority shall constitute a quorum for the
113 transaction of any business or the exercise of any power of the
114 authority, provided, two directors from municipal government shall be

115 present in order for a quorum to be in attendance. For the transaction
 116 of any business or the exercise of any power of the authority, and
 117 except as otherwise provided in this chapter, the authority shall have
 118 power to act by a majority of the directors present at any meeting at
 119 which a quorum is in attendance. If the legislative body of a
 120 municipality that is the site of a facility passes a resolution requesting
 121 the Governor to appoint a resident of such municipality to be [an ad
 122 hoc] a member, the Governor shall make such appointment upon the
 123 next vacancy for the [ad hoc] members representing such facility. The
 124 Governor shall appoint with the advice and consent of the General
 125 Assembly [ad hoc] members to represent each facility operated by the
 126 authority provided at least one-half of such members shall be chief
 127 elected officials of municipalities, or their designees. Each such facility
 128 shall be represented by two such members. The [ad hoc] municipal
 129 resident members shall be electors from a municipality or
 130 municipalities in the area to be served by the facility and shall vote
 131 [only] on all matters. [concerning such facility.] The terms of the [ad
 132 hoc] municipal resident members shall be four years. The ad hoc
 133 members serving on June 30, 2010, shall serve as such resident
 134 members for the remainder of the terms for which they were
 135 appointed as ad hoc members.

136 (h) There is established, effective June 1, 2002, a steering committee
 137 of the board of directors, consisting of at least three but not more than
 138 five directors, who shall be jointly appointed by the Governor, the
 139 president pro tempore of the Senate and the speaker of the House of
 140 Representatives. Said committee shall consist of at least one director
 141 who is a municipal official, as defined in subsection (c) of this section.
 142 The steering committee shall forthwith establish a financial
 143 restructuring plan for the authority, subject to the approval of the
 144 board of directors, and shall implement said plan. The financial
 145 restructuring plan shall determine the financial condition of the
 146 authority and provide for mitigation of the impact of the Connecticut
 147 Resources Recovery Authority-Enron-Connecticut Light and Power
 148 Company transaction on municipalities which have entered into solid

149 waste disposal services contracts with the authority. The steering
150 committee shall also review all aspects of the authority's finances and
151 administration, including but not limited to, tipping fees and
152 adjustments to such fees, the annual budget of the authority, any
153 budget transfers, any use of the authority's reserves, all contracts
154 entered into by or on behalf of the authority, including but not limited
155 to, an assessment of the alignment of interests between the authority
156 and the authority's contractors, all financings or restructuring of debts,
157 any sale or other disposition or valuation of assets of the authority,
158 including sales of electricity and steam, any joint ventures and
159 strategic partnerships, and the initiation and resolution of litigation,
160 arbitration and other disputes. The steering committee (1) shall have
161 access to all information, files and records maintained by the authority,
162 (2) may retain consultants and utilize other resources necessary to
163 carry out its responsibilities under this subsection, which have a total
164 cost of not more than five hundred thousand dollars, without the
165 approval of the board of directors, and may draw on accounts of the
166 authority for such costs, and (3) shall submit a report to the board of
167 directors and the General Assembly, in accordance with section 11-4a,
168 on its findings, progress and recommendations for future action by the
169 board of directors in carrying out the purposes of this subsection, not
170 later than December 31, 2002. Said report shall also include a report on
171 any loans made to the authority under section 22a-268d. The steering
172 committee shall terminate on December 31, 2002, unless extended by
173 the board.

174 (i) The board may delegate to three or more directors such board
175 powers and duties as it may deem necessary and proper in conformity
176 with the provisions of this chapter and its bylaws. At least one of such
177 directors shall be a municipal official, as defined in subsection (c) of
178 this section, and at least one of such directors shall not be a state
179 employee.

180 (j) Appointed directors may not designate a representative to
181 perform in their absence their respective duties under this chapter.

182 (k) The term "director", as used in this section, shall include such
183 persons so designated as provided in this section and this designation
184 shall be deemed temporary only and shall not affect any applicable
185 civil service or retirement rights of any person so designated.

186 (l) The appointing authority for any director may remove such
187 director for inefficiency, neglect of duty or misconduct in office after
188 giving the director a copy of the charges against the director and an
189 opportunity to be heard, in person or by counsel, in the director's
190 defense, upon not less than ten days' notice. If any director shall be so
191 removed, the appointing authority for such director shall file in the
192 office of the Secretary of the State a complete statement of charges
193 made against such director and the appointing authority's findings on
194 such statement of charges, together with a complete record of the
195 proceedings.

196 (m) The authority shall continue as long as it has bonds or other
197 obligations outstanding and until its existence is terminated by law.
198 Upon the termination of the existence of the authority, all its rights and
199 properties shall pass to and be vested in the state of Connecticut.

200 (n) The directors, members and officers of the authority and any
201 person executing the bonds or notes of the authority shall not be liable
202 personally on such bonds or notes or be subject to any personal
203 liability or accountability by reason of the issuance thereof, nor shall
204 any director, member or officer of the authority be personally liable for
205 damage or injury, not wanton or wilful, caused in the performance of
206 such person's duties and within the scope of such person's
207 employment or appointment as such director, member or officer.

208 (o) Notwithstanding the provisions of any other law to the contrary,
209 it shall not constitute a conflict of interest for a trustee, director,
210 partner or officer of any person, firm or corporation, or any individual
211 having a financial interest in a person, firm or corporation, to serve as a
212 director of the authority, provided such trustee, director, partner,
213 officer or individual shall abstain from deliberation, action or vote by

214 the authority in specific respect to such person, firm or corporation.

215 Sec. 2. Section 22a-20a of the general statutes is repealed and the
216 following is substituted in lieu thereof (*Effective October 1, 2010*):

217 (a) As used in this section:

218 (1) "Environmental justice community" means (A) a United States
219 census block group, as determined in accordance with the most recent
220 United States census, for which thirty per cent or more of the
221 population consists of low income persons who are not
222 institutionalized and have an income below two hundred per cent of
223 the federal poverty level, or (B) a distressed municipality, as defined in
224 subsection (b) of section 32-9p;

225 (2) "Affecting facility" means any (A) electric generating facility with
226 a capacity of more than ten megawatts; (B) sludge or solid waste
227 incinerator or combustor; (C) sewage treatment plant with a capacity
228 of more than fifty million gallons per day; (D) intermediate processing
229 center, volume reduction facility or multitown recycling facility with a
230 combined monthly volume in excess of twenty-five tons; (E) new or
231 expanded landfill, including, but not limited to, a landfill that contains
232 ash, construction and demolition debris or solid waste; (F) medical
233 waste incinerator; or (G) major source of air pollution, as defined by
234 the federal Clean Air Act. "Affecting facility" shall not include (i) the
235 portion of an electric generating facility that uses nonemitting and
236 nonpolluting renewable resources such as wind, solar and hydro
237 power or that uses fuel cells, (ii) any facility for which a certificate of
238 environmental compatibility and public need was obtained from the
239 Connecticut Siting Council on or before January 1, 2000, or (iii) a
240 facility of a constituent unit of the state system of higher education that
241 has been the subject of an environmental impact evaluation in
242 accordance with the provisions of sections 22a-1b to 22a-1h, inclusive,
243 and such evaluation has been determined to be satisfactory in
244 accordance with section 22a-1e;

245 (3) "Meaningful public participation" means (A) residents of an
 246 environmental justice community have an appropriate opportunity to
 247 participate in decisions about a proposed facility or the expansion of
 248 an existing facility that may adversely affect such residents'
 249 environment or health; (B) the public's participation may influence the
 250 regulatory agency's decision; and (C) the applicant for a new or
 251 expanded permit, certificate or siting approval seeks out and facilitates
 252 the participation of those potentially affected during the regulatory
 253 process; and

254 (4) "Community environmental benefit agreement" means a written
 255 agreement entered into by a municipality and an owner or developer
 256 of real property whereby the owner or developer agrees to develop
 257 real property that is to be used for any new or expanded affecting
 258 facility and to provide financial resources for the purpose of the
 259 mitigation, in whole or in part, of impacts reasonably related to the
 260 facility, including, but not limited to, impacts on the environment,
 261 traffic, parking and noise.

262 (b) (1) Applicants who, on or after January 1, 2009, seek to obtain
 263 any certificate under chapter 277a, new or expanded permit or siting
 264 approval from the Department of Environmental Protection,
 265 Department of Public Utility Control, Department of Economic and
 266 Community Development or the Connecticut Siting Council or, on or
 267 after the effective date of this section, seek to obtain any new or
 268 expanded permit or siting approval from the Department of Public
 269 Utility Control or the Department of Economic and Community
 270 Development, involving an affecting facility that is proposed to be
 271 located in an environmental justice community or the proposed
 272 expansion of an affecting facility located in such a community, shall
 273 (A) file a meaningful public participation plan with such department
 274 or council and shall obtain the department's or council's approval of
 275 such plan prior to filing any application for such permit, certificate or
 276 approval; and (B) [consult] negotiate the terms of a community
 277 environmental benefit agreement in accordance with subsection (d) of

278 this section with the chief elected official or officials of the town or
279 towns in which the affecting facility is to be located or expanded. [to
280 evaluate the need for a community environmental benefit agreement
281 in accordance with subsection (d) of this section.]

282 (2) Each such meaningful public participation plan shall contain
283 measures to facilitate meaningful public participation in the regulatory
284 process and a certification that the applicant will undertake the
285 measures contained in the plan. Such plan shall identify a time and
286 place where an informal public meeting will be held that is convenient
287 for the residents of the affected environmental justice community. In
288 addition, any such plan shall identify the methods, if any, by which the
289 applicant will publicize the date, time and nature of the informal
290 public meeting in addition to the publication required by subdivision
291 (3) of this subsection. Such methods may include, but not be limited to,
292 (A) posting a reasonably visible sign on the proposed or existing
293 facility property, printed in English, in accordance with any local
294 regulations and ordinances, (B) posting a reasonably visible sign,
295 printed in all languages spoken by at least twenty per cent of the
296 population that reside within a one-half of a mile radius of the
297 proposed or existing facility, in accordance with local regulations and
298 ordinances, (C) notifying neighborhood and environmental groups, in
299 writing, in a language appropriate for the target audience, and (D)
300 notifying local and state elected officials, in writing.

301 (3) Not less than ten days prior to the informal public meeting and
302 not more than thirty days prior to such meeting, the applicant shall
303 publish the date, time and nature of the informal public meeting with
304 [a minimum one-quarter page] an advertisement in a newspaper
305 having general circulation in the area affected, and any other
306 appropriate local newspaper serving such area, in the Monday issue of
307 a daily publication or any day in a weekly or monthly publication. The
308 headline for any such advertisement shall be printed in twenty point
309 font and any remaining information in such advertisement shall be
310 printed in twelve point font. The applicant shall post a similar

311 notification of the informal public meeting on the applicant's web site,
312 if applicable.

313 (4) At the informal public meeting, the applicant shall make a
314 reasonable and good faith effort to provide clear, accurate and
315 complete information about the proposed facility or the proposed
316 expansion of a facility and the potential environmental and health
317 impacts of such facility or such expansion.

318 (5) The Department of Environmental Protection or the Connecticut
319 Siting Council shall not take any action on the applicant's permit,
320 certificate or approval earlier than sixty days after the informal public
321 meeting.

322 (6) In the event that the Connecticut Siting Council has approved a
323 meaningful public participation plan concerning a new or expanded
324 facility and an informal public meeting has been held in accordance
325 with this subsection, the Department of Environmental Protection may
326 approve such plan and waive the requirement that an additional
327 informal public meeting be held in accordance with this subsection.

328 (c) Any municipality, owner or developer may enter into a
329 community environmental benefit agreement in connection with an
330 affecting facility. Mitigation may include both on-site and off-site
331 improvements, activities and programs, including, but not limited to:
332 Funding for activities such as environmental education, diesel
333 pollution reduction, construction of biking and walking trails, staffing
334 for parks, urban forestry, support for community gardens or any other
335 negotiated benefit to the environment in the environmental justice
336 community. Prior to negotiating the terms of a community
337 environmental benefit agreement, the municipality shall provide a
338 reasonable and public opportunity for residents of the potentially
339 affected environmental justice community to be heard concerning the
340 need for, and terms of, such agreement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2010</i>	22a-261
Sec. 2	<i>October 1, 2010</i>	22a-20a

Statement of Purpose:

To revise the make up of the CRRA board and to expand the agencies covered by the environmental justice community statute, alter newspaper notice requirements under the statute and require negotiation of a community environmental benefit agreement.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]